

(c) *State actions.* Nothing in this section may be construed to invalidate any more restrictive commencement or closure date established by any State in waters under its jurisdiction.

[50 FR 43400, Oct. 25, 1985, as amended at 53 FR 24645, June 29, 1988; 57 FR 32920, July 24, 1992; 60 FR 38512, July 27, 1995; 62 FR 8635, Feb. 26, 1997]

§ 285.21 Vessel permits.

(a) *Permit requirements.* A vessel that fishes for, takes, retains or possesses Atlantic bluefin tuna must have on board a valid permit issued to the vessel owner under this section.

(b) *Categories of permits.* (1) Upon submission of a complete and valid application pursuant to paragraph (c) of this section, the owner of each qualifying vessel may be issued a permit by NMFS for one of the following permit categories: General, Charter/Headboat, Angling, Harpoon Boat, Purse Seine, or Incidental Catch. A permit will not be issued for more than one category.

(2) Persons may fish for, retain or possess Atlantic bluefin tuna only under the quota, catch limits, and size classes applicable to the permit category of the carrying vessel, except that anglers on board General and Charter/Headboat category vessels may fish for and retain school, large school and small medium bluefin tuna, subject to the limits applicable to the Angling category only until such time that a large medium or giant bluefin tuna is caught, retained or possessed on board the vessel.

(3) School, large school and small medium bluefin tuna landed by anglers on board General and Charter/Headboat category vessels are counted against the Angling category quota. When the General category fishery is open, large medium and giant bluefin tuna landed by anglers on board General and Charter/Headboat category vessels are counted against the General category quota. When the General category fishery is closed, or at any time in the Gulf of Mexico, large medium and giant bluefin tuna landed by anglers on board Angling and Charter/Headboat category vessels pursuant to § 285.24(d)(2) may not be sold and are counted against the Angling category quota.

(4) Persons fishing for Atlantic bluefin tuna must not possess on board or use any gear inappropriate to the category for which the carrying vessel is permitted:

(i) General—rod and reel (including downriggers), handline, harpoon, bandit gear;

(ii) Charter/Headboat—rod and reel (including downriggers), handline;

(iii) Angling—rod and reel (including downriggers), handline;

(iv) Harpoon Boat—harpoon;

(v) Purse Seine—purse seine nets;

(vi) Incidental Catch—purse seine nets, fixed gear, traps, longlines.

(5) When fishing for, or possessing, Atlantic bluefin tuna, operators of vessels permitted for the Charter/Headboat category must have on board a current copy of the operator's merchant marine license or the operator's uninspected passenger vessel license.

(6) Vessels permitted for any category other than the Angling category are eligible to conduct commercial fishing for Atlantic bluefin tuna.

(7) Except for purse seine vessels for which a permit has been issued under this section, an owner may change the category of the vessel's Atlantic tunas permit to another category by application on the appropriate form to NMFS or by dialing 1-888-USA-TUNA before the specified deadline. After the deadline, the vessel's permit category may not be changed to another category for the remainder of the calendar year, regardless of any change in the vessel's ownership. For 1997, the deadline is July 28, 1997. In years after 1997, the deadline for category changes is May 15.

(c) *Application procedure.* A vessel owner applying for a permit under this section must submit a completed permit application as indicated in the application instructions at least 30 days before the date on which the applicant desires to have the permit made effective.

(1) Applicants must provide all information concerning vessel, gear used, fishing areas, and fisheries participation, including sworn statements relative to income requirements and permit conditions, as indicated in the instructions on the application form.

(2) Applicants must also submit a copy of the official state registration or United States Coast Guard documentation, charter/headboat license, and, if a boat is owned by a corporation or partnership, the corporate or partnership documents (copy of Certificate of Incorporation and Articles of Association or Incorporation), along with the names of all shareholders owning 5 percent or more of the corporation's stock.

(3) NMFS may require the applicant to provide documentation supporting any sworn statements required under this section before a permit is issued or to substantiate why such permit should not be revoked or otherwise sanctioned under paragraph (j) of this section.

(4) Applicants must also submit any other information that may be necessary for the issuance or administration of the permit, as requested by NMFS.

(d) *Issuance.* (1) Except as provided in subpart D of 15 CFR part 904, a permit shall be issued within 30 days of receipt of a completed application. An application is complete when all requested forms, reports, information, sworn statements and supporting documentation have been received.

(2) The applicant will be notified of any deficiency in the application. If the applicant fails to correct the deficiency within 15 days following the date of notification, the application will be considered abandoned.

(e) *Duration.* A permit issued under this section remains valid until it expires or is suspended, revoked, or modified pursuant to subpart D of 15 CFR part 904. Permits expire on the date indicated on the permit or when any of the information previously submitted on the application changes. Permits must be renewed upon expiration. Renewal of permits must be initiated at least 30 days before the expiration date to avoid a lapse in validity.

(f) *Alteration.* A permit issued under this section which is substantially altered, erased, or mutilated is invalid.

(g) *Replacement.* Replacement permits will be issued when requested by the owner or authorized representative. A request for a replacement permit will not be considered a new application.

An appropriate fee, consistent with paragraph (k) of this section, may be charged for issuance of the replacement permit.

(h) *Transfer.* A permit issued under this section, except in the case of a purse seine permit as allowed under paragraph (m) of this section, is not transferable or assignable to another vessel or owner; it is valid only for the vessel and owner to which it is issued.

(i) *Display.* A permit issued under this section must be carried on board the vessel at all times. The permit must be displayed for inspection upon request of any authorized officer or any employee of NMFS designated by the Regional Director for such purpose. Upon sale of any large medium or giant Atlantic bluefin tuna, the vessel permit must be presented for inspection to the permitted dealer completing the landing card.

(j) *Sanctions.* The Administrator may suspend, revoke, modify, or deny a permit issued or sought under this section. Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(k) *Fees.* NMFS may charge a fee to recover the administrative expenses of permit issuance. The amount of the fee shall be determined, at least biannually, in accordance with the procedures of the NOAA Finance Handbook, available from the Director, for determining administrative costs of each special product or service. The fee may not exceed such costs and is specified with application or renewal instructions. The required fee must accompany each application or renewal. Failure to pay the fee will preclude issuance of the permit.

(l) *Change in application information.* Within 15 days after any change in the information contained in an application submitted under this section, the vessel owner must report the change by phone (1-888-USA-TUNA) or internet (<http://www.usatuna.com>). In such case, a new permit will be issued to incorporate the new information. For certain informational changes, NMFS may require supporting documentation before a new permit will be issued or may require payment of an additional fee. Permittees will be notified of such

requirements, if applicable, when reporting changes. In case of failure to report changes, the permit shall be void as of the sixteenth day after a change in the permit information should have been reported as found in an action under 15 CFR part 904.

(m) *Closed categories.* The Regional Director will issue permits to catch and retain Atlantic bluefin tuna under § 285.22(c) only to current owners of those purse seine vessels, or their replacements, that were granted allocations under this subpart and landed Atlantic bluefin tuna in the fishery for Atlantic bluefin tuna during the period 1980 through 1982. The Regional Director will not issue a permit to take Atlantic bluefin tuna under this subpart to the owner of any vessel that was replaced or consolidated with another vessel and retired from the purse seine fishery during the period 1980 through 1982, unless that vessel is replacing another vessel being retired from the fishery.

[50 FR 43400, Oct. 25, 1985, as amended at 58 FR 45290, Aug. 27, 1993; 60 FR 38512, July 27, 1995; 62 FR 332, Jan. 3, 1997; 62 FR 27519, May 20, 1997; 62 FR 30744, June 5, 1997; 62 FR 38487, July 18, 1997]

§ 285.22 Quotas.

The total annual (January 1–December 31) amount of Atlantic bluefin tuna that may be caught, retained, possessed or landed by persons and vessels subject to U.S. jurisdiction in the regulatory area is subdivided as follows:

(a) *General.* (1) The total annual amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed or landed in the regulatory area by vessels permitted in the General category under § 285.21(b) is 633 mt, of which 374 mt are available in the period beginning June 1 and ending August 31; 187 mt are available in the period beginning September 1 and ending September 30; and 72 mt are available in the period beginning October 1.

(2) On the basis of the statistics referenced at § 285.20(b)(1), the Assistant Administrator will project a date when the catch of Atlantic bluefin tuna will equal the available quota in any period, and will publish a notification in the FEDERAL REGISTER stating that fishing for, retaining, possessing, or

landing Atlantic bluefin tuna under the quota for that period is prohibited from a specified time on that date until the opening of the subsequent quota period, whereupon a quota equal to the initial quota for that period as adjusted for estimated overharvest or underharvest prior to that period will become available.

(3) When the October General category catch is projected to have reached a total of 10 mt less than the overall October quota, the Director will publish a notification in the FEDERAL REGISTER to set aside the remaining quota for an area comprising the waters south and west of a straight line originating at a point on the southern shore of Long Island at 72°27' W. long. (Shinnecock Inlet) and running SSE 150° true, and north of 38°47' N. lat. The daily catch limit for the set-aside area will be one large medium or giant Atlantic bluefin tuna per vessel per day. Upon the effective date of the set-aside, fishing for, retaining, or landing large medium or giant Atlantic bluefin tuna must cease in all waters outside of the set-aside area.

(b) *Harpoon Boat.* The total annual amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed, or landed in the regulatory area by vessels permitted in the Harpoon Boat category under § 285.21(b) is 53 mt.

(c) *Purse Seine.* The total amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed, or landed in the regulatory area by vessels permitted in the Purse Seine category under § 285.21(b) is 250 mt.

(d) *Angling.* The total annual amount of Atlantic bluefin tuna that may be caught, retained, possessed, or landed in the regulatory area by anglers is 265 mt. No more than 6 mt of this quota may be large medium or giant bluefin tuna quota and no more than 108 mt of this quota may be school Atlantic bluefin tuna. The size class subquotas for Atlantic bluefin tuna are further subdivided as follows:

(1) 51 mt of school, 71 mt of large school or small medium, and 4 mt of large medium or giant Atlantic bluefin tuna may be caught, retained, possessed, or landed south of 38°47' N. lat.